

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:09-CR-00035-F-1

UNITED STATES OF AMERICA

)

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v.

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O R D E R

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YADIRA AVILEZ-LOPEZ,

)

Defendant.

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This matter is before the court on Yadira Avilez-Lopez's Motion for Sentencing Transcripts [DE-55]. In her motion, Avilez-Lopez seeks the transcripts from her sentencing hearing at the Government's expense. *Id.* at 1.

Title 28, United States Code, Section 753(f) addresses the circumstances under which transcripts may be provided to an indigent defendant at the Government's expense. The statute, in pertinent part, provides as follows:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. § 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

28 U.S.C. § 753(f). An indigent defendant may be entitled to transcripts at the Government's expense if he has stated a proper ground for relief and the transcripts are indispensable. *United States v. Glass*, 317 F.2d 200, 202-03 (4th Cir. 1963).

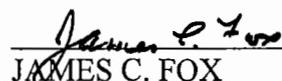
Avilez-Lopez states that the transcripts are necessary in this case because parts will be required at her immigration removal proceeding. Avilez-Lopez is advised that if her sentencing

transcript is necessary for her removal proceedings, it will be transcribed. In sum, the court concludes that Avilez-Lopez has not sufficiently stated a particularized need. Consequently, Avilez-Lopez's Motion for Sentencing Transcripts [DE-55] is DENIED.

The Clerk is DIRECTED to provide Avilez-Lopez with information on how she can obtain a copy of her sentencing hearing transcript at her expense.

SO ORDERED.

This, the 16 day of November, 2016.



JAMES C. FOX
Senior United States District Judge